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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HIDEAKI NOBUSAWA and SUSUMU NONAKA

Appeal 2008-005378
Application 10/697,755
Technology Center 2600

Decided: August 25, 2009

Before JOSEPH F. RUGGIERO, ROBERT E. NAPPI, and
THOMAS S. HAHN, *Administrative Patent Judges*.

HAHN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from the Examiner's rejections of claims 16-40. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

STATEMENT OF THE CASE

Appellants claim a method and a mobile telephone combined with a remote control for remotely operating equipment, e.g., televisions, video tape recorders, sound equipment, etc. The apparatus includes an operation unit having a plurality of operation buttons, a memory for storing remote control codes to remotely operate equipment, and a transmitter to transmit remote control codes selected using operation buttons.¹ Claims 16, 19, and 32, with key disputed limitations emphasized, are illustrative:

16. A mobile telephone with remote-controlling capability which remote-controls target equipment, comprising:

storage means for storing a group of remote control codes for a predetermined controlling operation to be performed on the target equipment; and

transmission means for transmitting to the target equipment the group of remote control codes for the predetermined controlling operation to be performed on the target equipment in response to a user operation.

19. A mobile telephone with remote-controlling capability which remote-controls target equipment, comprising:

an operation unit having a plurality of operation buttons;

storage means for storing various remote control codes associated with the plurality of operation buttons in a one-to-one relationship for various controlling operations on the target equipment, and a part of remote control codes of a group of remote control codes for a predetermined controlling operation on the target equipment; and

¹ See generally Spec. 16:18-26; 17:9-15; 24:27-25:3; 25:10-27:5; 27:12-28:9; 29:17-32:17; 32:27-36:27; 38:10-15; Figs. 1-3.

transmission means for transmitting to the target equipment the group of remote control codes formed by a remote control code associated with an operation button pressed by a user in advance and the part of remote control codes to perform the predetermined controlling operation on the target equipment in response to a user operation.

32. A remote-controlling method for a mobile telephone with remote-controlling capability which remote-controls target equipment, and has an operation unit and storage means for storing various remote control codes associated with a plurality of operation buttons of the operation unit in a one-to-one relationship for various controlling operations on the target equipment, a first group of remote control codes for a predetermined first controlling operation on the target equipment, and a part of remote control codes of a second group of remote control codes for a predetermined second controlling operation on the target equipment, comprising the steps of:

transmitting to the target equipment a remote control code associated with one button of the plurality of operation buttons when the one button is pressed and when the mobile telephone is set in a first remote control mode;

transmitting to the target equipment the first group of remote control codes in response to a user operation when the mobile telephone is set in a second remote control mode; and

transmitting to the target equipment the second group of remote control codes formed by a remote control code associated with an operation button pressed by a user in advance and the part of remote control codes in response to a user operation when the mobile telephone is set in a third remote control mode.

The Examiner relies on the following as evidence in support of the rejections:

Goldstein	US 5,410,326	Apr. 25, 1995
August	US 5,671,267	Sep. 23, 1997
Shim	US 6,078,270	June 20, 2000
Stenman	US 6,223,029 B1	Apr. 24, 2001
Wall	US 2003/0156053 A1	Aug. 21, 2003

1. The Examiner rejected claims 16, 19, 22, 26, 29, 32, and 36-38 under 35 U.S.C. § 103(a) as unpatentable over Stenman and Shim.
2. The Examiner rejected claim 17 under 35 U.S.C. § 103(a) as unpatentable over Stenman, Shim, and August.
3. The Examiner rejected claims 18, 21, 25, 28, 31, and 35 under 35 U.S.C. § 103(a) as unpatentable over Stenman, Shim, and Wall.
4. The Examiner rejected claims 20, 23, 24, 27, 30, 33, and 34 under 35 U.S.C. § 103(a) as unpatentable over Stenman, Shim, and August.
5. The Examiner rejected claim 39 under 35 U.S.C. § 103(a) as unpatentable over Stenman, Shim, and Wall.
6. The Examiner rejected claim 40 under 35 U.S.C. § 103(a) as unpatentable over Stenman, Shim, Wall, and Goldstein.

Rather than repeat the arguments of Appellants or of the Examiner, we refer to the Briefs and the Answer² for their respective details. In this decision, we have considered only those arguments actually made by Appellants. Arguments that Appellants could have made but did not make

² We refer throughout this opinion to (1) the Appeal Brief filed Jan. 28, 2008, (2) the Examiner's Answer mailed Feb. 26, 2008, and the Reply Brief filed June 25, 2007.

in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellants' Arguments

All appealed claims are rejected under § 103(a) as unpatentable over at least Stenman and Shim. The Examiner finds Stenman teaches a mobile telephone combined with a remote control capability for operating target equipment (Ans. 3). Appellants assert that the appealed claims are patentable because Shim does not teach or suggest subject matter that the Examiner combines with Stenman under § 103(a) (App. Br. 17-24; Reply Br. 1-4). Specifically, Appellants contend Shim is deficient as to claims 16, 22, 26, 32, 36, and 38 in not teaching (i) “a group of control codes for one operation”, and (ii) that “the group of codes are transmitted to one target apparatus” (App. Br. 18). For claims 19, 22, 29, 32, 37, and 38, Appellants contend “Shim does not teach storing parts of a remote control group in memory” (App. Br. 20). For claims 22, 32, and 38, Appellants contend “Shim fails to teach first, second and third remote control modes” (App. Br. 22). Then Appellants contend that the August reference fails to cure asserted Shim deficiencies for claims 17, 20, 23, 24, 27, 30, 33, and 34, (App. Br. 23). Similarly, with respect to claims 18, 21, 25, 28, 31, 35, and 39, Appellants contend that the Wall reference fails to cure asserted Shim deficiencies (App. Br. 23, 24). Finally, for claim 40, Appellants contend that Wall and Goldstein fail to cure asserted Shim deficiencies (App. Br. 24).

ISSUES

Have Appellants shown the Examiner erred in finding under § 103 that the combination of Stenman and Shim teaches or suggests limitations of independent claims 16, 19, 22, 26, 29, 32, and 36-38? This issue turns on whether Shim teaches or suggests claimed subject matter for (i) a group of remote control codes for a predetermined operation, (ii) transmission of a group of remote control codes for a predetermined controlling operation to be performed on target equipment, (iii) storing various remote control codes, and (iv) first, second, and third remote control modes.

Have Appellants shown the Examiner erred in finding under § 103 that the combination of Stenman, Shim, and August teach or suggest limitations of claims 17, 20, 23, 24, 27, 30, 33, and 34, because August fails to cure asserted Shim deficiencies?

Have Appellants shown the Examiner erred in finding under § 103 that the combination of Stenman, Shim, and Wall teach or suggest limitations of claims 18, 21, 25, 28, 31, 35, and 39, because Wall fails to cure asserted Shim deficiencies?

Have Appellants shown the Examiner erred in finding under § 103 that the combination of Stenman, Shim, Wall, and Goldstein teach or suggest limitations of claim 40, because Wall and/or Goldstein fail to cure asserted Shim deficiencies?

FINDINGS OF FACT

A preponderance of the evidence supports the following Findings of Fact (FF):

Present Application

1. The Specification of the present application discloses an embodiment having “first to third remote control modes . . . prepared . . .” that include selected types of target equipment, target equipment manufacturers, and time settings for executing operations (Spec., 29:11-32:7; Figs. 9-13)..

Stenman

2. Stenman discloses a mobile station system with combined mobile telephone and remote control devices for operating peripheral equipment such as televisions, video recorder/player equipment, stereo equipment, etc. The Stenman mobile station incorporates a remote control that stores predetermined control commands, which a user can select and actuate via an included user interface. The user actuated control commands are transmitted to peripheral equipment (Stenman, col. 3, ll. 22-36; col. 7, ll. 14-23 and 48-65).

Shim

3. Shim describes a method for effecting data transmissions from a remote controller to appliances, such as televisions, video cassette recorders, etc. (Shim, col. 1, ll. 6-12 and 30-40)

4. Shim discloses a remote controller IC 10 where data for controlling appliances is preset, i.e., stored. Connected to the remote controller IC 10 are a key matrix 20, with separate keys, and a light emitting diode (LED) for transmitting key selected data to appliances (Shim, col. 2, ll. 25-47; Fig. 1).

5. A transmitted Shim data stream is disclosed as being composed of at least three portions: (i) a “header pulse” for setting an interrupt state, which directs processing priority; (ii) a “custom code” for classifying appliances by

manufacturing company; and (iii) a “data code” for directing operation of an appliance (Shim, col. 2, ll. 17, 18; col. 3, ll. 8-21; Fig. 3).

6. Shim describes two embodiments for transmitting disclosed data streams. One embodiment has a user operate a key matrix 20 key that directs outputting a single instruction data set from a remote controller IC 10 buffer, and transmitting the selected single instruction data set using the LED. The other embodiment has a user operate another key matrix 20 key to direct outputting plural instruction data sets, e.g., for turning on a television and setting a channel, from a remote controller IC 10 buffer, and transmitting the selected plural instruction data sets using the LED. (Abstract; Shim, col. 3, ll. 42-63; col. 4, ll. 12-29).

PRINCIPLES OF LAW

An Examiner, in rejecting claims under 35 U.S.C. § 103, must establish a factual basis to support a legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). The required factual determinations are set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966) (explaining that 35 U.S.C. § 103 leads to three factual inquiries: (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art). Furthermore, the Supreme Court has explained that an obviousness rejection must be based on

“some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”. . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

KSR Int'l. v. Teleflex, Inc., 550 U.S. 398, 418 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

ANALYSIS

Obviousness Rejection Based on Stenman and Shim

Claims 16, 19, 22, 26, 29, 32, and 36-38

Appellants argue the patentability of these claims in three separate groups: (i) claims 16, 22, 26, 32, 36, and 38 (App. Br. 17-20); (ii) claims 19, 22, 29, 32, 37, and 38 (App. Br. 20, 21); and (iii) claims 22, 32, and 38 (App. Br. 22).

Based on the record, we will sustain this rejection as is discussed below for the Appellants' three claim groupings.

A

Appellants do not separately argue any of the claims in the first group, i.e., claims 16, 22, 26, 32, 36, and 38, which are all independent (App. Br. 17-20). We, accordingly, select independent claim 16 as representative for this group. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellants' assert as a general proposition that the Stenman and Shim "combination is deficient for at least two reasons; (1) Shim does not teach a group of control codes for one operation, and (2) Shim does not teach that the group of codes are transmitted to one target apparatus" (App. Br. 18). More specifically, Appellants argue "Shim teaches a method of controlling successive operations in at least two remotely control devices by pressing one key" (*id.*).

We are not persuaded by this argument, because the record does not corroborate that Shim exclusively discloses having a user press one key and

thereby initiate multiple equipment operations, as opposed to one. We concur with Appellants that Shim does disclose an embodiment having a user initiating multiple equipment operations (FF 6), but we also find Shim disclosing an alternative embodiment for a user to initiate a *single* equipment operation (*id.*).

The Examiner further refutes Appellants' argument with the contention that "[t]hese claims indicate a group of codes for carrying out an operation, which does not support a limitation of a single operation" (Ans. 16). Turning to what is claimed; we note that representative claim 16 recites a "transmission means for transmitting . . . the group of remote control codes for the predetermined controlling operation to be performed on the target equipment." We, accordingly, concur with the Examiner, because the recited "predetermined controlling operation" limitation is not narrowed to preclude a reasonably broad interpretation that encompasses both multiple and single instructions being sent to "target equipment" as a user selected "operation."³ Appellants do not identify claimed narrowing subject matter, or evidence of record, to support their asserted narrow interpretation. In summation, we construe representative claim 16 as encompassing transmitting means for initiating either single or multiple instruction data sets. Thus, we conclude that the disputed representative claim 16 limitation

³ *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (A claim during examination is given its broadest reasonable construction "in light of the specification as it would be interpreted by one of ordinary skill in the art.") *See also, Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875 (Fed Cir. 2004) ("[A] particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.")

reads on Shim disclosures for user initiated transmission of either single or plural instruction data sets (FF 6).

Turning to Appellants' argument that Shim teaches transmitting instructions to more than one target apparatus, we conclude, as does the Examiner, that restricting transmissions to one target apparatus is not a claimed limitation (Ans. 16). Representative claim 16 covers performing "a predetermined controlling operation . . . on the target equipment." Again, the subject limitation, i.e., target equipment, is not narrowed so as to preclude a reasonably broad interpretation from encompassing multiple devices. In fact, the word "equipment" is both the singular and plural form for the same noun.

On the record before us, we conclude that Appellants' patentability arguments for the first group of claims do not persuasively rebut the Examiner's *prima facie* obviousness rejection.

B

Appellants do not separately argue any of the claims in the second group, i.e., claims 19, 22, 29, 32, 37, and 38, which also are independent (App. Br. 20, 21). We, accordingly, select independent claim 19 as representative for this group. *See* 37 C.F.R. § 41.37(c)(1)(vii).

Appellants assert that each of these grouped claims "is directed to, in part, storing a part of remote control codes of a group of remote control codes for a predetermined controlling operation . . . associated with an operation button pressed by a user in advance . . . to perform the predetermined control operation" (App. Br. 20). More specifically, Appellants argue that "[i]n the claimed invention, the user can add certain information to the stored part of remote control codes, such as the hour, day,

minute and year, which will correspond to the hour, day, minute and year code prestored in the group. Shim does not teach storing parts of a remote control group in memory” (*id.*). Appellants further assert that: “In Shim, a complete code is stored in advance and transmitted, whereas, in the claimed invention only part of the second group is stored in advance, the remaining part is generated by a key depression which is added or coupled to the part that is stored in advance” (App. Br. 21).

We concur with the Examiner that Shim’s “buttons are simply switches that go to the controller and the controller stores . . . codes” to control the operation of appliances (Ans. 18; FF 4). We further find that each Shim stored instruction data set includes at least three portions: (i) a “header pulse” for setting an interrupt state, which directs processing priority; (ii) a “custom code” for classifying appliances by manufacturing company; and (iii) a “data code” for directing operation of appliances (FF 5). Accordingly, we find that Shim teaches storing different sets of remote control codes, and that each of such sets of stored remote control codes are separated into at least three portions or parts.

In relevant part, representative claim 19 recites “storage means for storing various remote control codes associated with the plurality of operation buttons in a one-to-one relationship for various controlling operations on the target equipment, and a part of remote control codes of a group of remote control codes for a predetermined controlling operation on the target equipment.”

Appellants assert that the codes for the invented subject matter are grouped, and that users can add code parts (Reply Br. 2). Appellants, however, do not point out relied on claimed subject matter that distinctly

recite such argued invention subject matter, e.g., a user adding any information to stored remote control codes. What Appellants assert is that the “claims state that the transmitted group of control codes is formed by (i) the remote control code associated with an operation button pressed by the user in advance and (ii) the part of remote control codes to perform the predetermined control operation on the target in response to a user operation” (Reply Br. 3). This assertion is merely a repeat of the disputed claim 19 limitation, without explanation as to any specialized meaning. Therefore, giving these terms their plain meanings;⁴ we conclude that “an operation button pressed by the user in advance” is open to multiple reasonable interpretations, because the recited “in advance” is nowhere given context such as delimitation to any subsequent act. Accordingly, the following recited “user operation” can reasonably be interpreted as covering a simultaneous or even a single pressing of the recited operation button. With this record, we concur with the Examiner that “[n]othing in the claim[s] states a user can add certain information to the stored part of remote control codes, such as the hour, day, minute and year, which will correspond to the hour, day, minute and year code prestored in the group” (Ans. 18).

On the record before us, we conclude that Appellants’ patentability arguments for the second group of claims do not persuasively rebut the Examiner’s prima facie obviousness rejection.

⁴ *Chef America, Inc., v. Lamb-Weston, Inc.* 358 F.3d 1371, 1373 (Fed. Cir. 2004) (Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say.).

C

For the third group of claims 22, 32, and 38, Appellants argue claim 32, but do not separately argue the other two independent claims (App. Br. 22).⁵ We, accordingly, select independent claim 32 as representative for this group. *See* 37 C.F.R. § 41.37(c)(1)(vii).

What Appellants argue is that these claims are “directed to, in part, different types of transmission when the mobile telephone device is set in a different remote control mode” (App. Br. 22). Appellants assert that “Shim . . . does not describe ‘setting’ a remote control mode” (*id.*). Further, Appellants disagree with the “Examiner equat[ing] the [claimed] modes with the [Shim] functionality of the remote control device” (Reply Br. 3).

The disputed limitations from claim 32, as identified by Appellants, are:

transmitting to the target equipment a remote control code associated with one button of the plurality of operation buttons when the one button is pressed and when the mobile telephone is set in a first remote control mode; transmitting to the target equipment the first group of remote control codes in response to a user operation when the mobile telephone is set in a second remote control mode; and transmitting to the target equipment the second group of remote control codes formed by a remote control code associated with an operation button pressed by a user in advance and the part of remote

⁵ In the Reply Brief, Appellants list claim 39 with claims 22, 32, and 38 for this group (Reply Br. 3), but do not separately argue claim 39. Claim 39 is not rejected with claims 22, 32, and 38 (*See* Ans. 3-8). Since claim 39 is separately rejected (Ans. 12-15), and separately addressed by Appellants (App. Br. 23, 24), we also separately address claim 39 *infra*, and do not consider the claim here.

control codes in response to a user operation when the mobile telephone is set in a third remote control mode

(App. Br. 22).

Appellants' argument revolves on assertions concerning setting different control modes, and that claim 32 explicitly recites that "the mobile telephone is set in a first [second or third] remote control mode" (*id.*). These arguments are referenced by Appellants with a bald citation to page 29 of the present application for interpretation of the disputed limitation (App. Br. 22). Beginning at page 29, line 11, of Appellants' application an embodiment for "first to third remote control modes" is described that includes selecting types of equipment to be controlled and equipment manufacturers (FF 1). The term "mode" is not defined in Appellants' application, and, therefore, is to be construed as encompassing its ordinary meaning and broadest reasonable interpretation.⁶

The Examiner indicates that "the claims do not . . . describe the modes and the Examiner uses the general definition of mode: manner; how something is done or how it happens; a particular functioning condition or arrangement" (Ans. 18, 19). We find no error in the Examiner's line of reasoning, because the ordinary and customary meaning of the disputed term is "a particular functioning arrangement or condition."⁷ In view of the

⁶ *E-Pass Techs. Inc., v. 3Com Corp.*, 343 F.3d 1364, 1368 (Fed. Cir. 2003) (Where no explicit definition for a term is given in the specification, the term should be given its ordinary meaning and broadest reasonable interpretation.).

⁷ Merriam-Webster's New Collegiate Dictionary, p. 739 (Henry Bosley Woolf, ed., 1974).

record, we are not persuaded by Appellants' assertions that the disputed limitations somehow exclude encompassing setting remote control functionalities, and we concur with the Examiner.⁸

The Examiner proceeds to find Shim disclosing that the taught remote control can be used in different functionalities/modes to operate a television power on/off state, channel setting, and volume setting (Ans. 19). Again, based on the record, we concur with the Examiner, and also find that Shim teaches that a user can operate a key matrix key to have a selected single instruction data set transmitted to an appliance, and then can operate a different key matrix key to have another instruction data set transmitted (FF 6).

Accordingly, on the record before us, we conclude that Appellants' patentability arguments for the third group of claims do not persuasively rebut the Examiner's *prima facie* obviousness rejection.

For the reasons indicated previously, therefore, we find no error in the Examiner's reasoning and will sustain the Examiner's *prima facie* obviousness rejection of all of claims 16, 19, 22, 26, 29, 32, and 36-38.

⁸ *See, supra*, n. 3.

Obviousness Rejections Based on Stenman, Shim, August

Claim 17

Appellants' sole argument is that August fails to cure the deficiencies in Stenman and Shim that Appellants asserted in arguing for the patentability of claims 16, 22, 26, 32, 36, and 38 (App. Br. 23).

Since, for the reasons indicated previously, we are not persuaded that Appellants' arguments persuasively rebut the Examiner's prima facie obviousness rejection of the previously argued claims, we also will sustain the Examiner's prima facie obviousness rejection of claim 17.

Claims 20, 23, 24, 27, 30, 33, and 34

Appellants' sole argument is that August fails to cure the deficiencies in Stenman and Shim that Appellants asserted in arguing for the patentability of claims 16, 19, 22, 26, 29, 32, and 36-38 (App. Br. 23).

Since, for the reasons indicated previously, we are not persuaded that Appellants' arguments persuasively rebut the Examiner's prima facie obviousness rejection of the previously argued claims, we also will sustain the Examiner's prima facie obviousness rejection of claims 20, 23, 24, 27, 30, 33, and 34.

Obviousness Rejections Based on Stenman, Shim, Wall

Claims 18, 21, 25, 28, 31, and 35

Appellants' sole argument is that Wall fails to cure the deficiencies in Stenman and Shim that Appellants asserted in arguing for the patentability of claims 16, 19, 22, 26, 29, 32, and 36-38 (App. Br. 23, 24).

Since, for the reasons indicated previously, we are not persuaded that Appellants' arguments persuasively rebut the Examiner's prima facie obviousness rejection of the previously argued claims, we also will sustain

the Examiner's prima facie obviousness rejection of claim 18, 21, 25, 28, 31, and 35.

Claim 39

Appellants' sole argument is that Wall fails to cure the deficiencies in Stenman and Shim that Appellants asserted in arguing for the patentability of claims 16, 19, 22, 26, 29, 32, and 36-38 (App. Br. 23).

Since, for the reasons indicated previously, we are not persuaded that Appellants' arguments persuasively rebut the Examiner's prima facie obviousness rejection of the previously argued claims, we also will sustain the Examiner's prima facie obviousness rejection of claim 39.

Obviousness Rejection Based on Stenman, Shim, Wall, and Goldstein

Claim 40

Appellants' sole argument is that Wall and Goldstein fail to cure the deficiencies in Stenman and Shim that Appellants asserted in arguing for the patentability of claims 16, 19, 22, 26, 29, 32, and 36-38 (App. Br. 24).

Since, for the reasons indicated previously, we are not persuaded that Appellants' arguments persuasively rebut the Examiner's prima facie obviousness rejection of the previously argued claims, we also will sustain the Examiner's prima facie obviousness rejection of claim 40.

CONCLUSIONS OF LAW

Appellants have not shown that the Examiner erred in finding under § 103 that the combination of Stenman and Shim teaches or suggests the limitations of independent claims 16, 19, 22, 26, 29, 32 and 36-38.

In particular, we conclude that Shim teaches or suggests (i) a group of remote control codes for a predetermined operation as covered in claims 16, 22, 26, 32, 36, and 38; (ii) transmission of a group of remote control codes for a predetermined controlling operation to be performed on target equipment as covered in claims 16, 22, 26, 32, 36, and 38; (iii) storing various remote control codes as covered in claims 19, 22, 29, 32, 37, and 38; and (iv) first, second, and third remote control modes as covered in claims 22, 32, 38.

Appellants have not shown that the Examiner erred in finding under § 103 that the combination of Stenman, Shim, and August teach or suggest limitations of claims 17, 20, 23, 24, 27, 30, 33, and 34.

Appellants have not shown that the Examiner erred in finding under § 103 that the combination of Stenman, Shim, and Wall teach or suggest limitations of claims 18, 21, 25, 28, 31, 35, and 39.

Appellants have not shown that the Examiner erred in finding under § 103 that the combination of Stenman, Shim, Wall, and Goldstein teach or suggest limitations of claim 40.

ORDER

The decision of the Examiner rejecting claims 16-40 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2008-005378
Application 10/697,755

AFFIRMED

gvw

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